

CENTRAL ADMINISTRATIVE TRIBUNAL: MUMBAI BENCH: MUMBAI

ORIGINAL APPLICATION NUMBER 827 OF 1994

THURSDAY, THIS THE 8TH DAY OF JULY, 1999.

Shri Justice S.Venkataraman, .. Vice-Chairman.

Shri S.K.Ghosal, .. Member(A).

1. Western Railway Promotee Officers' Association (H.Q.Branch) having its Headquarters at Western Railway HQ BLDG, 2nd Floor Room No.241, Churchgate, Bombay-20 and represented through its Secretary Sri Vishvanathan.
2. Y.K.Jain, working as SSTE (S), Western Railway, Churchgate, Bombay-400 020.
3. H.N.Rao, Working as SSTE (C), Western Railway, Churchgate, Bombay-400 020.
4. J.S. Rao, Working as DSTE, Bombay Central, D.R.M's Office Western Railway, Bombay Central, Bombay-400 008.
5. V.N.R.Pillai, Working as ASTE (C), Western Railway, Churchgate, Bombay-400 020.
6. G.L.Jain, working as ASTE (C), Western Railway, Bulsar, Gujarat State.  
C/o G.S.Walia,  
Advocate, High Court  
16, Maharashtra Bhavan,  
Bora Masjid Street,  
Fort, Bombay-400 001.

.. Applicants.

(By Advocate Shri G.S.Walia)

v.

1. Union of India,  
through Secretary, Railway Board,  
Rail Bhavan, New Delhi-110 001.
2. General Manager,  
Western Railway,  
Headquarters Office,  
Churchgate,  
Bombay 400 020.
3. D.P.Mehra,  
Dy.CSTE (C), Western Railway,  
Ajmer, Rajasthan.
4. Manoj Arora,  
SSTE (C), H.Q.Office,  
Western Railway, Churchgate,  
Bombay-400 020.
5. Prashant Rao,  
SSO (VII) Stores,  
Western Railway, Churchgate,  
Bombay-400 020.
6. Ravi Agrawala,  
DSTE, Western Railway,  
DRM's Office, Kota, Rajasthan.
7. Babulal Solanki,  
DSTE, DRM's Office,  
Western Railway,  
Bombay Central, Bombay-400 008.
8. R.K. Jain,  
DSTE, DRM's Office,  
Western Railway, Kota,  
Rajasthan State.
9. Prashant Shukla,  
DSTE (EDPM),  
Western Railway, Baroda,  
Gujarat State. .... Respondents.

(By Standing Counsel Shri Ramamurthy)

—  
O R D E R

Justice S.Venkataraman, Vice-Chairman:-

The applicants who are promotee officers from Group-C to Group-B in the Railway service have filed this application for

quashing the orders dated 13-9-1993, 22-12-1993, 4-2-1994 and 5-5-1994 and for a declaration that the promotee officers are entitled to be given the benefit of weightage of 5 years as provided under Para 7 of the Notification dated 30-11-1976 for seniority and that such weightage should be given from the date of vacancy, according to the Rules with all consequential benefit of promotion, increments, seniority etc.

2. The basis on which the applicants have sought for the above reliefs is the notification dated 30-11-1976. The applicants were promoted to the junior scale of IRSSE as per order dated 15-9-1992 and in that order 147 persons were promoted. This promotion, giving weightage to the promotees on the basis of the notification dated 30-11-1976 was questioned before the Principal Bench in O.A.No.574 of 1993. During the pendency of that application there was an interim stay for maintenance of status quo so far as promotees are concerned. The applicants' grievance is that though their promotion was held up, the respondents had unjustly promoted the private respondents though they should have been considered for promotion for those vacancies after giving them the weightage to which they are entitled to. The entire controversy as to whether the promotee officers are entitled to the weightage and as to how that weightage should be given has been gone into by the Principal Bench in its order dated 4-8-1995 in O.A.No.574 of 1993 (ANIL KUMAR SANGHI AND OTHERS v. UNION OF INDIA AND OTHERS). In that case, the Principal Bench has given the following directions:

"(i) It is not competent for the Railways to appoint

as many as persons by promotions as they like in disregard of the provisions of Rule 4 which stipulates the quota for promotion and direct recruitment. Repeated violent departures from the quota rule will lead to collapse of the quota rule (Direct Recruit's case - *supra*) and therefore of the linked seniority rule (B.S.Gupta's case - *supra*).

(ii) The principle of weightage in seniority will be limited to promotees appointed against their quota.

(iii) As the rules stand at present, the maximum quota for promotess is only 40%. It cannot be raised further by relaxation, as Government has no such power.

(iv) Vacancies not filled in a year - whether in the direct recruitment quota or promotee quota - can be carried ~~over~~<sup>over</sup>, but all such vacancies have to be filled in the subsequent years by both methods on the basis of the quota mentioned in Rule 4.

(v) Out of the 127 appointments made by the Annexure A-1 order dated 15-9-1993, promotion should be deemed to have been made to the extent of 40% of the vacancies in 1992 which have been computed tentatively at 89 (para 34 *supra*) subject to departmental verification. They alone are entitled to weightage and seniority on the seniority

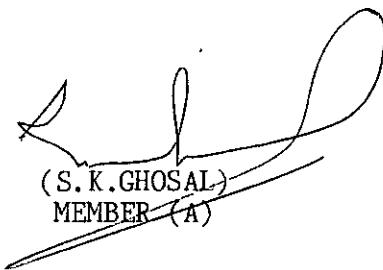
principles (vii) and (ix).

(vi) The remaining 38 persons, subject to departmental verification, have been promoted in excess of the promotion quota and they are not entitled to weightage in seniority on the basis of the Annexure A1 order. Their promotions shall be treated as ad hoc only. They can be treated as regularly promoted against the quota for promo-tees in 1993 and thereafter."

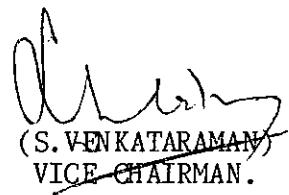
The directions given in the above case would apply to the present case also. The grievance of the applicants in this application is fully met by the directions given as above and even the learned counsel for the applicants does not seek to point out any aspect which is not covered by the order. He only submits that the department, on the basis of the directions given, should prepare a fresh seniority list and wherever necessary consider review promotions. There can be no doubt about the necessity of the department preparing a seniority list following the directions given by the Principal Bench and reviewing the promotions already done, if that becomes necessary after the seniority list is prepared, if that is not already done.

3. For the above reasons, this application is disposed of by giving the same directions given by the Principal Bench in O.A.No.574 of 1993 and further directing the respondents to prepare the seniority list in accordance with those directions

and if necessary, review the promotions on the basis of that seniority list unless such review is already done by them in pursuance of the directions given by the Principal Bench. No costs.



(S.K.GHOSAL)  
MEMBER (A)



(S. VENKATARAMAN)  
VICE CHAIRMAN.

np/